

The Madison County Plan Commission on the above date at 9:00 A.M. with Bill Maxwell, President, presiding.

Members Present: Bill Maxwell, Paul Wilson, John Orick, John Simmermon Brad Newman, and Wesley Likens.

Members Absent: John Randall, Mark Gary and Larry Crenshaw.

Also Present: Cory Wilson, Executive Director, Judy King, Plan Reviewer, Gerald Shine, Jr., Attorney, and Beverly Guignet, Secretary.

Current Business

1. Roll call was taken with three members, John Randall, Mark Gary and Larry Crenshaw being absent.

2. The minutes of the preceding meeting were distributed to each member prior to the meeting. Member Newman made a motion to approve the minutes. Member Likens seconded the motion. The vote was unanimous in favor of the motion.

Mrs. King told the board that Member Randall had called the office and told staff he is in a rehab center. He was concerned if there would be a quorum for today's meeting. Staff told him that several board members had inquired about his health and that they were thinking about him and wish him well.

CONTINUED PETITIONS

1. **Petition:** 08-W-005 & 08-W-007 Tabled at the Nov. 18, 2008 Planning Commission Meeting
Address: 9170 West Eighth Street, Anderson
Location: North side of Eighth Street, West of CR 900 West
Petitioner: Donald & Willodean Bardonner
Request: Provide for a split of less than the required 2 acres for the creation of an additional building tract, and relief of the required 25' side setback.

Janice Plummer and Richard Ward, Surveyor from Ward Surveying were present representing these petitions.

Director Wilson reminded the board that this had been tabled from the previous meeting because the board had requested something from the Board of Health be submitted concerning if the septic system failed that there would be enough room on the property to place another system. Staff did receive a letter from Brandon Clidence regarding the sewage disposal system. (Letter is on file in the Plan Commission office). Sewage disposal systems cannot leave the property that the sewage originates from unless easements are obtained. Mr. Clidence has said at this time he would not be comfortable suggesting that this would be suitable.

Dick Ward said he was at the site and did find the septic tank and found where it would terminate at the end of the property.

Janice Plummer, 9246 W 8th Street.

Mrs. Plummer passed to the board members a diagram which was given to the Board of Health showing where the septic system was located. (Diagram on file in the Plan Commission office). The diagram shows where the septic is and that there would be adequate room for a new system and finger system if a new one is needed.

The board was informed this would also have to go before the Plat Review Committee as an Administrative Subdivision and the septic system issued would have to be addressed at that time and a letter also from the Board of Health would be needed.

Director Wilson stated he would like any requested to the board be submitted at least seven days prior to the hearing so that a review may take place.

There were no remonstrators present.

Member Wilson made a motion to approve Petitions 08-W-005 & 08-W-007. Member Likens seconded the motion.

The vote was unanimous in favor of the motion. **Petitions 08-W-005 & 08-W-007 were approved.**

New Petitions:

1. **Petition:** **08-Z-008 Rezone & 08-W-010 Waiver**
 Address: 5515 North CR 100 West, Anderson
 Location: West side of CR 100 West, North of CR 500 North
 Petitioner: Roger D. Richert
 Request: Rezone from Agricultural (AG) to General Commercial (GC), and requesting
 relief of Zoning Ordinance Regulations requiring connection to public water and sewer.
 Property is currently being used as a furniture store.

Roger Richert and attorney, JR Builta were present representing this request.

Director Wilson stated staff recommends approval of the zoning request.

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ The subject site is an approximately 4.8-acre parcel located along the west side of CR 100 West, north of the City of Anderson. This request would rezone the parcel from the Agriculture (AG) district to the General Commercial (GC) classification to legally establish the retail sales of furniture within existing structures. The Comprehensive Plan recommends agriculture for this site. The property is surrounded by agriculture uses.

BACKGROUND

- ◇ In 2001, this parcel was rezoned to the Agriculture Classification during the update of both the Comprehensive Plan and the *Madison County Land Use & Development Code*. The property was rezoned in an attempt to provide

continuity to the area by matching to the surrounding land uses/zoning. However, during that update, existing site conditions and uses were not fully considered and some parcels were rezoned to a classification that did not represent the existing use/conditions of the site. The subject site is one of those situations.

- ◇ The petitioner initially contacted the Planning Department in an attempt to receive a “Legal Non-Conforming Use” (LNU) Certificate so that prospective buyers would be assured of financing. However, a structure that has received a LNU designation may not be reconstructed if 50% or more has been damaged. After research by the petitioner’s representative, it was determined that this would not be sufficient to secure a loan from a finance company as well as being adequate for insurance purposes. Therefore, the petitioner is seeking the rezoning of the site so that the use will match the zoning classification and financing for the property may be obtained.

TECHNICAL REVIEW COMMITTEE

- ◇ On December 2, 2008, the Madison County Technical Review Committee considered this request. During that meeting, discussion about “spot” zoning occurred and how this request is the epitome of that type of development. All members spoke on record about “spot” zoning and how it should be generally avoided. However, as with every land use petition, the Committee considered all factors when making their recommendation. Since this property was legally developed as a commercial business and with all structures being commercial in nature with little option for adaptive reuses that would be consistent with the Comprehensive Plan, the Committee unanimously voted to support this request.

FINDINGS OF FACT:

1. *Does the proposal comply with the Comprehensive Plan?*
No. However, the site has been used for general commercial purposes for at least 35 years with the site being developed legally prior to the update to the Comprehensive Plan in 2002.
2. *Would the proposed classification be consistent with current conditions, the character of current structures and uses in the immediate districts:*
Yes. The structures were all legally constructed for general commercial uses.
3. *Would the proposed classification be consistent with the most desirable use for which the land is adapted?*
Yes. The structures on site would only support some sort of commercial use. Although the Comprehensive Plan recommends agriculture-based development for this site, it is unlikely that this site would be used for farming/agriculture due to the existing conditions.
4. *Does the proposal substantially conserve property values throughout the jurisdiction:*
Yes. This property has been used for commercial activity for a number of years and no negative impacts have resulted.
5. *The proposal is reasonable in regard to responsible development and growth?*
Yes. As previously stated, the property has been used for commercial purposes for at least 35 years

GENERAL INFORMATION



EXISTING LAND USE AG

Furniture Sales

July 13, 1972; petition #88 – Rezone from Agriculture to B-3 to provide for International Harvester Farm Store – **approved.**

Mr. Builta informed the board this property was zoned General Commercial in 1973. When the new ordinance went in to affect in 2002 this property was zoned back to agricultural. Mr. Richert wants to sell the property, but because the mortgage companies will not lend money on something that has been grandfathered, a rezoning is necessary.

The Technical Review Committee gave their approval at their December 2, 2008 meeting.

There were no remonstrators present. & 08-W-010 Waiver

Member Orick moved to forward Petition 08-Z-008 Rezone to the County Commissioners with a favorable recommendation according to staff recommendations.

Member Newman seconded the motion.

The vote was unanimous in favor of the motion. **Petition 08-Z-008 Rezone was given a favorable recommendation.**

Member Wilson made a motion, seconded by Member Likens to approve Petition 08-W-010 Waiver.

The vote was unanimous in favor of the motion. **Petition 08-W-010 Waiver was approved.**

As Member Wilson was leaving the meeting he stated he would like to wish everyone a Merry Christmas. He also thanked all the board members for their service to Madison County and that their hard work is appreciated. And to keep Member Randall in their prayers.

2. Miscellaneous

Proposed Calendar for 2009

Calendars for the MCPC, BZA, Plat Review and Technical Committee all need to be approved for 2009.

After some discussion Member Likens made a motion, seconded by Member Newman to approve the 2009 calendar for MCPC meetings as presented. The vote was unanimous in favor of the motion.

Member Simmermon made a motion, seconded by Member Newman to approve the 2009 calendar for Technical Review Committee as presented. The vote was unanimous in favor of the motion.

Member Orick made a motion to approve the Plat Review calendar for 2009 with the following changes; November's meeting will be Wednesday 25 with the filing date of November 18 and December's will be Wednesday 23 with the filing date of December 3.

Member Newman seconded the motion.

The vote was unanimous in favor of the motion.

Director Wilson stated he has a copy of the ordinance that Grant County has prepared concerning the wind farms. They also have a copy of ours. It is felt that if you have a project that is going to be extending across the county lines, the technical data should be the same or very similar to what Grant County has and vice versa.

Member Orick made a motion, seconded by Member Newman to adjourn. The vote was unanimous in favor of the motion.

Adjournment: 9:47:44 A.M.

Bill Maxwell, President

Beverly Guignet, Secretary